

## **IDAPA 54 – OFFICE OF THE STATE TREASURER**

### **54.03.01- IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES**

**DOCKET NO. 54-0301-1401**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is June 15, 2014.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 14-539, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule defines when an insurer has knowledge that an individual has died and when the period for determining if benefits are unclaimed begins to run.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Many life insurance policy and annuity benefits go unclaimed because the beneficiary is unaware of the policy or contract. The unclaimed property laws are in place to provide a centralized location for holders of unclaimed property to deposit the property and for the rightful owner to search for and discover property. Several life insurance and annuity companies have taken the position that they do not have to transfer unclaimed policy and contract benefits under the Idaho unclaimed property laws because they do not know of the policy holder's death until they receive certification of death or because the time period for abandonment does not run until they receive such certification. In the meantime, the insurers hold and invest the policy benefits for their own account and do not take any action to locate a beneficiary. This is contrary to the public policy on which the unclaimed property laws are based. A temporary rule is necessary to define when the company knows of a death and to specify when the period of abandonment begins to run. The temporary rule will result in the inclusion of benefits long past their payable date on the list of unclaimed property and provide an immediate benefit to Idahoans who are unaware that the policies and contracts exist.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

No general funds are used for the unclaimed property program. Additional unclaimed property will be located due to the rule change and held for the rightful owners pursuant to title 14, chapter 5, Idaho Code. A limited amount of interest is earned on unclaimed property held by the Treasurer and retained in the general fund. The addition of unclaimed life insurance benefits under this rule will not generate sufficient income to produce a fiscal impact.

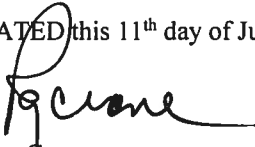
**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking. The Office of the Treasurer will request and consider comments on the proposed rule. The temporary rule is a compromise position between the proposal of the Uniform Law Commission requiring insurers check the Social Security Administration Master Death File and the insurer's position that they can hold and invest the policy benefits for their own account until they receive a death certificate. The Treasurer believes the compromise is reasonable for both the public and the insurers and appropriate for a temporary rule.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Audra fink, Program Specialist, at (208) 332-2978.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2014.

DATED this 11<sup>th</sup> day of July, 2014.

A handwritten signature in black ink, appearing to read "Ron Crane", is written over the "DATED" portion of the text.

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